

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
LYNCHBURG DIVISION**

UNITED STATES OF AMERICA

v.

LAWRENCE ELMO SCOTT,

Defendant.

CASE NO. 6:02-cr-70101-01

ORDER

JUDGE NORMAN K. MOON

The defendant Lawrence Elmo Scott (“Defendant”) filed this motion, pursuant to 18 U.S.C. § 3582(c)(2), for a reduction of his term of imprisonment based on a guideline sentencing range that was lowered and made retroactive by the U.S. Sentencing Commission. Defendant was found guilty by a jury on January 8, 2003, of distributing cocaine base (“crack”) within 1,000 feet of a school, in violation of 21 U.S.C. § 860(a). On April 8, 2003, Defendant was sentenced as a career offender under U.S.S.G. § 4B1.1 to 283 months’ imprisonment.

Amendment 750 to the U.S. Sentencing Guidelines, which was passed by the Sentencing Commission in accordance with the 2010 Fair Sentencing Act, reduced offense levels for most crack convictions. However, Amendment 750 did not reduce offense levels that are based on the career offender guideline. Because Defendant’s 283-month sentence was based on the career offender guideline, he is not eligible for a reduction under 18 U.S.C. § 3582(c)(2).¹ Accordingly, Defendant’s motion to reduce his sentence (docket no. 63) is DENIED.

¹ In support of his motion, Defendant also cites the recent Sixth Circuit decision in *United States v. Blewett*, 2013 WL 2121945 (6th Cir. May 17, 2013). In that case, the Sixth Circuit held that the 2010 Fair Sentencing Act should be applied retroactively to defendants sentenced prior to its enactment, pursuant to the Equal Protection Clause. *See Blewett*, 2013 WL 2121945, at *7-*9. However, that opinion has since been vacated (July 11, 2013), and a rehearing en banc has been granted. Furthermore, this court is bound by the law in the Fourth Circuit. In any case,

It is so ORDERED.

The Clerk of the Court is hereby directed to send a certified copy of this Order to the defendant.

Entered this 26th day of August, 2013.



NORMAN K. MOON
UNITED STATES DISTRICT JUDGE

as discussed, Amendment 750 is inapplicable to Defendant's April 2003 sentence.